moving into emerging economies. D 5 Sneaker maker has a knack for Nike is Asian bellwether

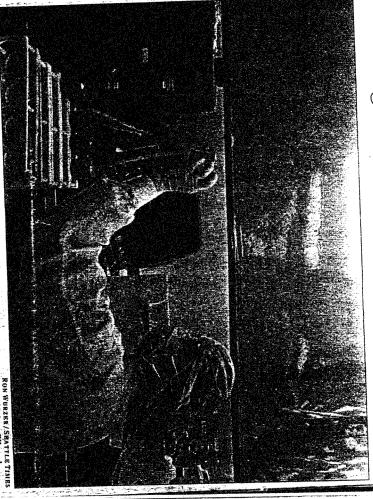
#### BUSINESS

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THE SEATTLE TIMES SECTION D THURSDAY, APRIL 17, 1997

## Patent litigation threatens cell-therapy progress



umns of protein-coated heads that are used to isolate blood-producing stem cells. Litigation threatens cancer and other research supported by CellPro products. Here Julie Nolan Jills col-THE !

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# Trials depend on CellPro product

By Keith Ervin Seattle Times Eastside business reporter

cians at Emory University School of Medicine in Atlanta began testing a from acute leukemia. save the lives of children suffering new therapy in a last-ditch effort to Nearly three years ago, physi-

and well, apparently cancer-free. of leukemia. Four of them are alive cell transplant or from a recurrence from complications from the stem-Most of the children died, either

> in U.S. District Court for additional ued research using its product are

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further clouded by motions pending

The future of CellPro and contin-

compatible donor cells, researchers are worried that a legal dispute beimproved method for removing indren for a follow-up study using an tween competing rival biotechnology its tracks. companies could stop the research in Now, after enrolling more chil-

er types of cells, including tumor Bothell company that produces the blood-producing stem cells from othsystem - one used to separate heavy toll on CellPro, the 8-year-old The litigation is also taking a

by the Food and Drug Administration in December for use in bone-marrow Concentration System was approved CellPro's Ceprate SC Stem Cell

> under study in hospitals around the transplants for breast cancer, lymphoma and other cancers. It is also country for treatment of cancers and multiple sclerosis. immune-system disorders such as

patented by Johns Hopkins Universi-

care giants Becton Dickinson and Baxter International. CellPro stock, once trading for more than \$30 a Johns Hopkins patents. The jury ordered the Bothell company to pay Pro had willfully infringed on two Hopkins and its licensees, health-\$2.3 million in damages to

are worried that clinical trials will be providing free antibodies. Switching at Emory and Northwestern univeraccording to research administrators delay research for at least a year the competing Baxter product would research from the CellPro product to halted if CellPro is prevented from

CellPro, claiming the Johns Hop-kins patent is invalid, plans to appeal

the ruling. The company has also asked the U.S. Department of Health on a compelling public interest and Hopkins was supported with federal to continue selling its product, based and Human Services for permission the fact that the research at Johns

ty to isolate stem cells. The system uses an antibody

share, is trading now at about \$5.50. A federal court jury in Wilmington, Del., last month found that Cell-A number of cancer researchers Johns

any products for free.

Deborah Spak, spokeswoman for tor receives FDA approval. On Monday, the FDA accepted the applicauntil Baxter's own stem-cell separaensuring that patients' needs are met injunction was proposed as a way of Baxter International, said the phased

royalties of at least \$2,000 for each

use of its product and cease providing plan would require that CellPro pay CellPro's product. The phase-out

\$7 million, and a phase-out of sales of damages of \$6.9 million, legal costs of son and Baxter have asked for treble sales. Johns Hopkins, Becton Dickindamages and for restrictions

PLEASE SEE CellPro ON D 4

### ESS/FINANCIAL MARKETS THURSDAY, APRIL 17, 1997

#### ellPro

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"We would have been well within our legal rights to ask for a
permanent injunction immediately," Spak said. "We want to make
sure there's a smooth transition to a
technology that's licensed under the
patents. At the same time it's not
fair for CellPro to reap financial
reward from continued infringement of those two patents."

But CellPro President Richard Murdock accused Baxter and its partners of a public-relations ploy, saying they "know full well" that his company can't afford to sell its product while paying the proposed damages and royalties. Murdock claims the Baxter-proposed injunction would stop clinical trials now

underway.

Patent dispute threatens clinical trials

Among those studies is a joint effort by six hospitals, including the Fred Hutchinson Cancer Research Center, using CellPro's Ceprate SC and Ceprate TCD systems to treat children for whom no other treatment is available. The TCD system is intended to remove donors' immune-system cells that can cause complications after peripheral blood stem-cell transplants.

"It's unfortunate that these sorts of things in corporate America can threaten therapeutic clinical trials and potentially life-saving therapies," said Dr. Andrew Yeager, director of Emory University's bone-marrow transplant programs.

Also concerned about prossible

Also concerned about possible effects of the litigation is Dr. Richard Burt, director of allogeneic

bone-marrow transplants at Northwestern University outside Chicago. He said Ceprate SC has reduced cancer patients' hospital stays after transplants from four weeks to 11 days.

Burt also reports "encouraging results" in using the antibody to treat patients suffering from potentially fatal forms of multiple sclerosis, lupus and rheumatoid arthritis. But more studies are needed, he

Biotech stock analysts said Cell-Pro is blessed with enough cash reserves to continue its legal battle. For investors who own CellPro stock, "I would recommend that they keep holding it," said Ragen MacKenzie analyst Andrew Heyward. "But we're not buying or selling it."